Remarks

Claims 1-22 are pending in the application.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elliott et al. US 20040022237, hereinafter "Elliott" in view of H. Schulrinne et al. IETF RFC 3550 "RTP: A Transport Protocol for Real-Time Applications," July 2003, hereinafter "RFC 3550."

Claims 14-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elliott.

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously

depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

Rejection Under 35 U.S.C. 103(a)

Claims 1-13

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elliott in view of RFC 3550. The rejection is traversed.

Elliott and RFC 3550, alone or in combination, fail to teach or suggest all the claim elements, as claimed in Applicants' claim 1. Namely, Elliott and RFC 3550, alone or in combination, fail to teach or suggest at least the limitation of "(c) accepting a new call into the IP network in the case of said parameter not exceeding an upper threshold," as claimed in Applicants' claim 1.

Elliott discloses an architecture for communicating voice and data over a packet-switched network. Specifically, Elliott discloses that the architecture includes soft switch sites, a data network, a provisioning component, a network event component, and a network management component. (Elliott, Abstract).

Elliott, however, alone or in combination with RFC 3550, fails to disclose Applicants' claim 1, as a whole. Namely, Elliott fails to teach or suggest at least the limitation of "(c) accepting a new call into the IP network in the case of said parameter not exceeding an upper threshold."

Rather, although Elliott describes a system that permits packet switching of voice calls and data calls through a data network, Elliott merely discloses thresholds associated with termination points (referred to as Quota Routing), thresholds associated with customer usage limits, thresholds associated with calling cards, and thresholds associated with the number of simultaneous conferences on a LAN. (Elliott, Paragraphs 1946, 1960, 1993, and 2011). Elliott is devoid of any teaching or suggestion of any threshold associated with acceptance of new calls into an IP network. Thus, Elliott is devoid of any teaching or suggestion of accepting a new call into an IP network if a parameter does not exceed an upper threshold, as claimed in Applicants' claim 1.

Additionally, in the Office Action, the Examiner asserts that Elliott discloses this limitation of Applicants' claim 1, however, the Examiner has failed to cite any portion of Elliott upon which this assertion is based. MPEP §706.02(j) states that "...the examiner should set forth in the Office action: (A) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate,...." Thus, Applicants respectfully submit that, since the Examiner has failed to provide any indication of the basis for the assertion that Elliott discloses Applicants' limitation of "(c) accepting a new call into the IP network in the case of said parameter not exceeding an upper threshold," the Examiner has failed to properly establish obviousness under 35 U.S.C. 103(a).

Furthermore, RFC 3550 fails to bridge the substantial gap between Elliott and Applicants' invention.

RFC 3550 discloses the Real-Time Transport Protocol (RTP). Specifically, RFC 3550 discloses message formats, header fields, session multiplexing, and other specifics of the RTP. Additionally, RFC 3550 discloses details of the RTP Control Protocol (RTCP), such as packet formats, packet send and receive rules, and other specifics of the RTCP.

RFC 3550, however, alone or in combination with Elliott, fails to disclose Applicants' claim 1, as a whole. Namely, RFC 3550 fails to teach or suggest at least the limitation of "(c) accepting a new call into the IP network in the case of said parameter not exceeding an upper threshold," as claimed in Applicants' claim 1.

Rather, although RFC 3550 discloses a packet loss ratio and RTCP sender and receiver reports, RFC 3550 is devoid of any teaching or suggestion of how a new call is accepted into an IP network, much less that a new call is accepted into the IP network where a parameter associated with quality of service of voice calls does not exceed an upper threshold, as claimed in Applicants' claim 1. RFC 3550 is devoid of any teaching or suggestion of any threshold comparisons. As such, RFC 3550 fails to teach or suggest accepting a new call into the IP network in the case of said parameter not exceeding an upper threshold, as claimed in Applicants' claim 1.

As such, Elliott and RFC 3550, alone or in combination, fail to teach or suggest Applicants' claim 1, as a whole. Thus, claim 1 is allowable over the combination of

Elliott and RFC 3550. Furthermore, since all of the dependent claims that depend from the independent claim include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over the combination of Elliott and RFC 3550.

Therefore, the rejection should be withdrawn.

Claims 14-22

Claims 14-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elliott. The rejection is traversed.

The Office Action failed to establish a *prima facie* case of obviousness, because Elliott fails to teach or suggest all the claim elements.

Elliott discloses an architecture for communicating voice and data over a packet-switched network. Specifically, Elliott discloses that the architecture includes soft switch sites, a data network, a provisioning component, a network event component, and a network management component. (Elliott, Abstract).

Elliott, however, fails to disclose all the claim elements of independent claim 14. Namely, Elliott fails to teach or suggest at least the limitation of "a third circuit for processing the polled information to determine whether the voice call data is to be accepted by the internet protocol network," as claimed in Applicants' claim 14.

In the Office Action, the Examiner asserts that "...the CPU (of Soft Switch 204, FIG. 2B) can be used for processing the polled information to determine whether the voice call is to be accepted by the internet protocol network, therefore, is equivalent to the third circuit for processing the polled information." (Office Action, Pg. 8).

First, Applicants respectfully note that there is no basis for the Examiner's assertion. The Examiner has failed to provide any citation to Elliott in support of this assertion. Further, the Examiner has failed to provide any rationale for this assertion. Rather, the Examiner merely reaches an unsupported conclusion that the CPU can be used for processing polled information to determine whether voice call data is to be accepted by an internet protocol network. There is no basis for the Examiner's assertion and, thus, it cannot be maintained.

Second, Applicants note that, for at least the same reasons described herein with respect to Applicants' claim 1, Elliott fails to teach or suggest processing polled information to determine whether voice call data is to be accepted by an internet protocol network. Elliott is devoid of any teaching or suggestion of any such determination. Thus, even assuming that the Examiner had properly relied upon Elliott in support of the assertion that the CPU can be used for processing polled information to determine whether voice call data is to be accepted by an internet protocol network, the Examiner's rejection based on Elliott would still fail to teach or suggest Applicants' claim 14, as a whole.

Furthermore, Applicants respectfully submit that claim 14 is directed toward an apparatus comprising a gateway, where the gateway further comprises three circuits for performing different functions. In the Office Action, however, the Examiner relies upon two different apparatuses in rejecting claim 14 (namely, Ethernet switch 332 and Soft Switch 204). As noted in Applicants' response to the previous Office Action, Ethernet switch 332 and Soft Switch 204 of Elliott are separate apparatuses in communication via communication links. Specifically, Elliott states that "[s]oft switches 204a, 204b and 204c are connected to SS7 GWs 208, 210, CS/CDBs 206a, 206b and RSs 212a, 212b via redundant ethernet switches (ESs) 332, 334 having multiple redundant paths." (Elliott, Para. 0568). Thus, the portions of Elliott relied upon by the Examiner do not teach an apparatus comprising a gateway, where the gateway comprises the three circuits claimed in Applicants' claim 14.

As such, Elliott fails to teach or suggest Applicants' claim 14, as a whole. Thus, claim 14 is allowable over Elliott. Furthermore, since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Elliott.

Therefore, the rejection should be withdrawn.

Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Michael Bentley or Eamon Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

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